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CITY OF ANAHEIM, JORGE
CISNEROS, PAUL DELGADO, BRETT
HEITMAN, KENNETH WEBER, and
CATALIN PANOV

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ANTONIO LOPEZ, individually;
JOHANNA LOPEZ, individually;
M.R., by and through his guardian ad
litem, April Rodriguez, individually and
as successor in interest to Brandon
Lopez; B.L. and J.L., by and through
their guardian ad litem Rachel Perez,
individually and as successor in interest
to Brandon Lopez; S.L., by and through
his guardian ad litem, Rocio Flores,
individually and as successor in interest
to Brandon Lopez,

Plaintiffs,

vs.

CITY OF ANAHEIM; CITY OF
SANTA ANA; DAVID VALENTIN;
JORGE CISNEROS; PAUL
DELGADO; BRETT HEITMAN;
KENNETH WEBER; CAITLIN
PANOV; DOES 1-10,

Defendants.

Case No. 8:22-cv-1351-JVS-ADS
[Hon. James V. Selna, Dist. Judge; Hon.
Autumn D. Spaeth, M. Judge]

**STATEMENT OF UNDISPUTED
FACTS IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT OR
PARTIAL SUMMARY JUDGMENT**

*Filed Concurrently with Defendants'
Motion for Summary Judgment;
Declaration of Abigail J.R.
McLaughlin; Notice of Lodging; and
[Proposed] Order*

Date: August 12, 2024

Time: 1:30 p.m.

Crtrm.: 10C

FPTC Date:

September 9, 2024

Trial Date:

September 17, 2024

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

In accordance with C.D. Cal. L.R. 56-1, Defendants CITY OF ANAHEIM, JORGE CISNEROS, PAUL DELGADO, BRETT HEITMAN, KENNETH WEBER, and CATALIN PANOVA (“Anaheim Defendants”) submit the following statement of undisputed facts in support of Defendants’ Motion for Summary Judgment or Partial Summary Judgment in this action. The following undisputed facts apply to all federal and state claims.

STATEMENT OF UNDISPUTED FACTS

Defs.’ SUF No.	Fact	Supporting Evidence ¹
A. Mr. Lopez Is Suspected of Vehicular Theft and Flees Traffic Stop, Leading APD Officers On Vehicular Pursuit.		
1.	On September 28, 2021, at about 3:00 p.m., the APD received a stolen vehicle report regarding a black Dodge Charger.	Exh. 1 ² , Composite Video at 00:00-00:05; Exh. 2, Audio Interview of Anaheim Police Investigator Ricky Reynoso (“Reynoso Interview”); Exh. 11, Dispatch Audio of Pursuit; Exh. 19, Transcript of Interview of Anaheim Police Investigator Ricky Reynoso (“Reynoso Interview Transcript”) at pp. 4-5.

¹ For the Court’s ease, the referenced Exhibits 19-__ are attached to the Declaration of Abigail J.R. McLaughlin, filed concurrently, and Exhibits 1-18 are on a flash drive which will be lodged with the Court’s chambers, as mentioned in the concurrently filed Notice of Lodging.

² Defendants’ Composite Video (Exhibit “1”) is made up of all relevant and/or pertinent video footage regarding the incident played simultaneously. The Anaheim Officer Defendants’ body worn camera footage that is used in this Composite Video is included as Exhibits 16-18.

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Defs.' SUF No.	Fact	Supporting Evidence ¹		
2.	Brandon Lopez was identified as the suspect regarding the theft of the black Dodge Charger.	Exh. 2, Reynoso Interview; Exh. 3, Audio Interview of Santa Ana Police Department Officer Kenny Aguilar ("Aguilar Interview"); Exh. 11, Dispatch Audio of Pursuit; Exh. 19, Reynoso Interview Transcript at p. 5; Exh. 20, Transcript of Interview of Santa Ana Police Department Officer Kenny Aguilar ("Aguilar Interview Transcript") at p. 6.		
3.	Mr. Lopez had an active warrant for armed robbery.	Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 11, Dispatch Audio of Pursuit; Exh. 15, Audio Interview of Defendant Sergeant Paul Delgado ("Delgado Interview"); Exh. 19, Reynoso Interview Transcript at pp. 5-6, 12; Exh. 20, Aguilar Interview Transcript at p. 6; Exh. 21, Transcript of Audio Interview of Defendant Sergeant Paul Delgado ("Delgado Interview Transcript") at 15:12-16:17.		
4.	APD officers located the stolen Dodge Charger in Santa Ana, California and, at about 5:15 p.m., tried to conduct a traffic stop.	Exh. 1, Composite Video at 00:05-00:19; Exh. 2, Reynoso Interview; Exh. 11, Dispatch Audio of Pursuit; Exh. 19, Reynoso Interview Transcript at p. 6.		
5.	The driver of the stolen vehicle, later confirmed to be Mr. Lopez, fled the stop: leading officers on a vehicle pursuit for approximately 30 minutes through Tustin, Irvine, and Santa Ana.	Exh. 1, Composite Video at 00:19-00:49; Exh. 2, Reynoso Interview; Exh. 11, Dispatch Audio of Pursuit; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 6-7; Exh. 21, Delgado Interview		

1 2 3	Defs.' SUF No.	Fact	Supporting Evidence ¹
4 5 6 7 8	6.	During the vehicle pursuit, Mr. Lopez ran red lights and stop signs, and he drove into oncoming traffic.	Exh. 1, Composite Video at 00:19-00:49; Exh. 11, Dispatch Audio of Pursuit; Exh. 15, Delgado Interview; Exh. 21, Delgado Interview Transcript at 15:12-16:17
9 10 11 12	7.	Mr. Lopez was also involved in a traffic collision, but he drove away from the scene of the collision.	Exh. 4, Cell Phone Video of Collision; Exh. 11, Dispatch Audio of Pursuit; Exh. 15, Delgado Interview; Exh. 21, Delgado Interview Transcript at 15:12-16:17
13 14 15 16 17 18 19 20 21 22 23 24 25 26	8.	This information was radioed to the APD officers, along with his criminal history/warrants.	Exh. 2, Reynoso Interview; Exh. 5, Audio Interview of Defendant Sergeant Kenneth Weber ("Weber Interview"); Exh. 11, Dispatch Audio of Pursuit; Exh. 14, Audio Interview of Defendant Officer Catalin Panov ("Panov Interview"); Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 12; Exh. 21, Delgado Interview Transcript at 15:12-16:17; Exh. 22, Transcript of Audio Interview of Defendant Sergeant Kenneth Weber ("Weber Interview Transcript") at 17:23-18:7; Exh. 23, Transcript of Audio Interview of Defendant Officer Catalin Panov ("Panov Interview Transcript") at 19:22-20:12.
27 28	9.	At about 5:49 p.m., Mr. Lopez's vehicle became disabled/immobilized on partially	Exh. 1, Composite Video at 00:49-01:25; Exh. 2, Reynoso Interview; Exh. 6, Audio Interview of Santa

1 2 3 4 5 6 7 8 9 10 11	Defs.' SUF No.	Fact	Supporting Evidence ¹
		constructed train tracks, after driving into a construction zone.	Ana Police Department Officer Sergio Martinez ("Martinez Interview"); Exh. 11, Dispatch Audio of Pursuit; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 7; Exh. 21, Delgado Interview Transcript at 15:12-16:17; Exh. 24, Transcript of Interview of Santa Ana Police Department Officer Sergio Martinez ("Martinez Interview Transcript") at pp. 4, 12.
12	B. Mr. Lopez's Stand Off With Law Enforcement.		
13 14 15 16 17 18	10.	APD Officers arrived to execute a high risk vehicle stop on Mr. Lopez and the stolen vehicle.	Exh. 1, Composite Video at 01:25-01:52; Exh. 2, Reynoso Interview; Exh. 6, Martinez Interview; Exh. 12, Dispatch Audio of Stand Off; Exh. 19, Reynoso Interview Transcript at p. 7; Exh. 24, Martinez Interview Transcript at p. 4.
19 20 21 22 23 24 25 26 27 28	11.	However, Mr. Lopez would not comply with commands to exit the vehicle or to surrender.	Exh. 1, Composite Video at 01:25-01:52; Exh. 2, Reynoso Interview; Exh. 6, Martinez Interview; Exh. 7, Audio Interview of Santa Ana Police Department Corporal Luis Galeana ("Galeana Interview"); Exh. 12, Dispatch Audio of Stand Off; Exh. 13, Heitman Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 7; Exh. 21, Delgado Interview Transcript at 15:12-16:17; Exh. 24, Martinez Interview Transcript at pp. 4-5; Exh. 25, Transcript of Interview of Santa Ana Police

1 2 3 4 5 6	Defs.' SUF No.	Fact	Supporting Evidence ¹
7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	12.	APD officers continued to try to negotiate with Mr. Lopez to surrender peacefully for approximately 3 hours: trying to convince Mr. Lopez to exit his vehicle and giving commands in both English and Spanish; but Mr. Lopez remained in the vehicle.	Department Corporal Luis Galeana (“Galeana Interview Transcript”) at p. 11; Exh. 26, Heitman Interview Transcript at 30:20-31:5. Exh. 1, Composite Video at 01:25-02:13; Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 5, Sgt. Weber Audio Interview; Exh. 6, Martinez Interview; Exh. 7, Galeana Interview; Exh. 9, Mullins Interview; Exh. 12, Dispatch Audio of Stand Off; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 13-14; Exh. 20, Aguilar Interview Transcript at pp. 10-12, 15-16, 17-18; Exh. 21, Delgado Interview Transcript at 25:10-26:19; Exh. 22, Weber Interview Transcript at 25:5-19, 35:19-36:18, 38:4-12, 38:18-39:5; Exh. 23, Panov Interview Transcript at 27:21-28:5; Exh. 24, Martinez Interview Transcript at pp. 5-7; Exh. 25, Galeana Interview Transcript at p. 22; Exh. 27, Mullins Interview Transcript at pp. 8-9.
23 24 25 26 27 28	13.	Mr. Lopez also responded to commands by shaking his head, indicating that he would not exit the stranded vehicle.	Exh. 3, Aguilar Interview; Exh. 6, Martinez Interview; Exh. 15, Delgado Interview; Exh. 20, Aguilar Interview Transcript at pp. 10-12, 17-18; Exh. 21, Delgado Interview Transcript at 26:20-27:5; Exh. 24, Martinez Interview Transcript at pp. 5-7, 25-26.

1 2	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	23 24 25 26 27 28
Defs.' SUF No.	Fact	Supporting Evidence ¹
14.	At a certain point, law enforcement officers saw Mr. Lopez inside of the Dodge Charger with what they believed to be a gun in his right hand and reported the same over the radio.	Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 8, Audio Interview of Santa Ana Police Officer Nelson Menendez ("Menendez Interview"); Exh. 9, Audio Interview of Anaheim Police Officer Brandon Mullins ("Mullins Interview"); Exh. 13, Audio Interview of Defendant Officer Brett Heitman ("Heitman Interview"); Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 7-8, 12-13; Exh. 20, Aguilar Interview Transcript at pp. 19-25; Exh. 21, Delgado Interview Transcript at 44:16-45:9; Exh. 22, Weber Interview Transcript at 18:20-19:21, 39:6-40:24; Exh. 24, Martinez Interview Transcript at p. 15; Exh. 26, Heitman Interview Transcript at 17:8-19:1; Exh. 27, Mullins Interview Transcript at pp. 3-4; Exh. 28, Transcript of Interview of Santa Ana Police Officer Nelson Menendez ("Officer Menendez Interview Transcript") at pp. 8-11.
15.	The officers also observed Mr. Lopez smoking something from a foil and through a pipe, suggesting that Mr. Lopez was taking illegal drugs.	Exh. 1, Composite Video at 02:21-02:26; Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 10, Audio Interview of Anaheim Police Officer James Lopez ("Officer Lopez Interview"); Exh. 13,

1	Defs.' SUF No.	Fact	Supporting Evidence ¹
2			
3			Heitman Interview; Exh. 19,
4			Reynoso Interview Transcript at p.
5			9; Exh. 20, Aguilar Interview
6			Transcript at pp. 13-14, 20; Exh.
7			22, Weber Interview Transcript at
8			39:6-40:24; Exh. 24, Martinez
9			Interview Transcript at pp. 5-7, 15-
10			16; Exh. 26, Heitman Interview
11			Transcript at 31:19-32:9; Exh. 29,
12			Transcript of Interview of Anaheim
13			Police Officer James Lopez
14			("Officer Lopez Interview
15			Transcript") at p. 5.
16	16.	Officers also reported seeing Mr. Lopez making furtive movements, such as reaching under the front passenger seat with both hands and talking on a cell phone.	Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 10, Officer Lopez Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 9; Exh. 20, Aguilar Interview Transcript at pp. 20-21; Exh. 21, Delgado Interview Transcript at 24:5-25:9; Exh. 22, Weber Interview Transcript at 39:6-40:24; Exh. 24, Martinez Interview Transcript at pp. 5-7.
17	17.	Officers also observed Mr. Lopez take a pen from the center console and write something, which was discovered to be a suicide note after the incident.	Exh. 5, Weber Interview; Exh. 22, Weber Interview Transcript at 39:6-40:24.
18	18.	Mr. Lopez then placed his vehicle's floor mats over the car's windows: to obscure officers' views.	Exh. 1, Composite Video at 2:14-2:20; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 10, Officer Lopez Interview; Exh.

1 2 3 4 5 6 7 8 9	10 11 12 13 14 15 16	17 18 19 20 21 22 23 24 25 26 27 28
Defs.' SUF No.	Fact	Supporting Evidence ¹
		14, Panov Interview; Exh. 15, Delgado Interview; Exh. 21, Delgado Interview Transcript at 20:14-24, 46:1-20; Exh. 22, Weber Interview Transcript at 37:10-16; Exh. 23, Panov Interview Transcript at 62:8-63:12; Exh. 24, Martinez Interview Transcript at p. 29; Exh. 29, Officer Lopez Interview Transcript at p. 5.
19.	This information about Mr. Lopez's behavior was relayed to the officers responding to the scene, who viewed Lopez's conduct as indicating a threatening intent.	Exh. 1, Composite Video at 2:14-2:20; Exh. 5, Weber Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 21, Delgado Interview Transcript at 20:14-24; Exh. 22, Weber Interview Transcript at 37:10-16; Exh. 23, Panov Interview Transcript at 62:8-63:12.
20.	As a result, APD SWAT was called to respond to the scene and took control of the scene at approximately 9:07 p.m.	Exh. 6, Martinez Interview; Exh. 7, Galeana Interview; Exh. 24, Martinez Interview Transcript at pp. 14, 21; Exh. 25, Galeana Interview Transcript at pp. 19-20.
21.	At approximately 9:34 p.m., APD SWAT was informed that Mr. Lopez had advised a family member that he intended to commit "suicide by cop": which raised the officers concerns that he might try to seriously injure someone in order to provoke the officers to shoot him.	Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 10, Officer Lopez Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 15; Exh. 21, Delgado Interview Transcript at 21:10-20; Exh. 22, Weber Interview Transcript at 39:6-40:24; Exh. 23, Panov Interview Transcript at 26:3-13, 64:15-21; Exh. 26, Heitman

1 2 3 4 5	6 7 8 9 10 11 12 13 14 15	16 17 18 19 20 21 22 23 24 25 26 27 28
Defs.' SUF No.	Fact	Supporting Evidence ¹
		Interview Transcript at 31:19-32:9; Exh. 29, Officer Lopez Interview Transcript at p. 7.
22.	Shortly thereafter, notwithstanding the obstruction of the mats in the car windows, Mr. Lopez was seen shifting to the back seat of the vehicle.	Exh. 2, Reynoso Interview; Exh. 5, Sgt. Weber Audio Interview; Exh. 10, Officer Lopez Interview; Exh. 19, Reynoso Interview Transcript at p. 9; Exh. 22, Weber Interview Transcript at 37:3-38:3; Exh. 29, Officer Lopez Interview Transcript at p. 5.
23.	The officers at the scene, including the defendant officers, viewed the totality of Lopez's aforementioned conduct up to that point as threatening and potentially pre-assaultive.	Exh. 2, Reynoso Interview; Exh. 3, Aguilar Interview; Exh. 19, Reynoso Interview Transcript at pp. 7-10, 12-13; Exh. 20, Aguilar Interview Transcript at pp. 23-24.
C. APD SWAT Officers Attempt to Detain Mr. Lopez, Who Proceeds to Run Towards APD SWAT Officers While Pointing a Black Object At Officers With Mr. Lopez's Right Hand, Believed To Be A Gun.		
24.	APD SWAT members then lined up near the Dodge Charger in the following order: Defendant Officer Brett Heitmann, Defendant Sergeant Paul Delgado, non-defendant APD Officer Ricky Reynoso (armed with a less-lethal 40 mm weapon), Defendant Officer Catalin Panov, and Defendant Sergeant Kenneth, and non-defendant APD K-9 Officer Brandon Mullins.	Exh. 2, Reynoso Interview; Exh. 5, Weber Audio Interview; Exh. 9, Mullins Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 8, 14; Exh. 21, Delgado Interview at 19:25-20:13; Exh. 22, Weber Interview Transcript at 31:7-33:3, 35:5-10, 46:5-15; Exh. 23, Panov Interview Transcript at 26:3-24; ; Exh. 26, Heitman Interview Transcript at 37:13-22; Exh. 27, Mullins Interview Transcript at pp.

1 2 3	Defs.' SUF No.	Fact	Supporting Evidence ¹
4	25.	At 10:00 p.m., officers deployed a flash-bang on the hood of the Dodge Charger and a chemical agent akin to pepper spray through the rear windshield.	3-4, 9-10. Exh. 1, Composite Video at 02:26-02:38; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 8; Exh. 21, Delgado Interview Transcript at 27:22-28:2; Exh. 22, Weber Interview Transcript at 44:22-46:15; Exh. 23, Panov Interview at 28:16-30:7; Exh. 24, Martinez Interview Transcript at pp. 27-28; Exh. 26, Heitman Interview at 40:2-43:16.
15	26.	Mr. Lopez then finally emerged from the rear door driver's side of the vehicle and he began fleeing from the SWAT officers.	Exh. 1, Composite Video at 02:36-02:42; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 7-8; Exh. 21, Delgado Interview Transcript at 28:3-17; Exh. 22, Weber Interview Transcript at 46:16-25; Exh. 24, Martinez Interview Transcript at pp. 28, 31.
23	27.	The officers commanded Mr. Lopez to put his hands up.	Exh. 1, Composite Video at 02:36-02:43; Exh. 13, Heitman Interview; Exh. 15, Delgado Interview; Exh. 21, Delgado Interview Transcript at 28:13-17, 47:3-14; Exh. 26, Heitman Interview Transcript at 43:6-44:7, 46:23-47:3, 65:17-24.

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Defs.' SUF No.	Fact	Supporting Evidence ¹	
28.	Ignoring the officers' commands, Mr. Lopez stopped running away from the officers, instead turning towards the SWAT officers and quickly pointed at them with a black object in his right hand while beginning to run in the officers' direction.	Exh. 1, Composite Video at 02:42-02:43; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 10, Officer Lopez Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 8-11, 14, 16-17; Exh. 21, Delgado Interview Transcript at 28:3-17; Exh. 22, Weber Interview Transcript at 46:16-47:6, 50:2-20, 65:19-67:8; Exh. 23, Panov Interview Transcript at 36:1-18, 36:25-39:23; Exh. 24, Martinez Interview Transcript at pp. 8, 31; Exh. 26, Heitman Interview Transcript at 43:6-44:7, 47:10-48:25, 64:10-65:16, 67:17-25; Exh. 29, Officer Lopez Interview Transcript at pp. 5-6.	
29.	Seeing this, Defendant Officer Catalin Panov responded by shouting, "Gun, gun, gun."	Exh. A, Composite Video at 02:42-02:43; Exh. 5, Weber Interview; Exh. 10, Officer Lopez Interview; Exh. 14, Panov Interview; Exh. 22, Weber Interview Transcript at 56:4-22; Exh. 23, Panov Interview Transcript at 36:25-39:23, 43:17-22; Exh. 29, Officer Lopez Interview Transcript at pp. 5-6.	
30.	In that split-second moment, the APD SWAT officers present believed that Lopez was about to fire a gun at them.	Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 8-10,	

1 2 3 4 5 6 7 8 9	10 11 12 13 14 15 16 17 18 19	20 21 22	23 24 25 26 27 28
Defs.' SUF No.	Fact	Supporting Evidence ¹	
		14-15; Exh. 21, Delgado Interview Transcript at 28:16-21; Exh. 22, Weber Interview Transcript at 47:7-48:10, 50:2-20, 56:23-57:8, 68:5-12; Exh. 23, Panov Interview Transcript at 36:1-18, 36:25-39:23; Exh. 25, Heitman Interview Transcript at 47:10-48:25, 49:3-9, 51:6-13.	
31.	Accordingly, Defendant Officer Heitman fired 4 to 5 shots from his rifle; Defendant Officer Panov also concurrently fired 10 shots from his handgun; Defendant Sergeant Weber also concurrently fired 5 shots from his handgun; and Defendant Sergeant Delgado concurrently fired four shots from his rifle.	Exh. 1, Composite Video at 02:42-02:46; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 13, Heitman Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 11; Exh. 21, Delgado Interview at 29:22-30:5; Exh. 22, Sgt. Weber Interview Transcript at 49:11-22, 52:18-53:3; Exh. 24, Martinez Interview Transcript at p. 32; Exh. 26, Heitman Interview Transcript at 14:19-21. 51:12-13, 53:1-54:1.	
32.	All shots were fired in about 2.2 seconds.	Exh. 1, Composite Video at 02:42-02:46.	
33.	Mr. Lopez then fell to the ground with his arms under his front torso.	Exh. 1, Composite Video at 02:46-3:37; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 9, Mullins Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 11; Exh.	

1 2 3 4 5 6 7 8 9	10 11 12 13 14 15 16 17 18 19 20 21 22 23	24 25 26 27 28
Defs.' SUF No.	Fact	Supporting Evidence ¹
		21, Delgado Interview Transcript at 40:10-23; Exh. 22, Weber Interview Transcript at 54:1-19; Exh. 23, Panov Interview Transcript at 48:5-13; Exh. 24, Martinez Interview Transcript at p. 36; Exh. 26, Heitman Interview Transcript at 55:1-56:24; Exh. 27, Mullins Interview Transcript at p. 10.
34.	Because the APD SWAT officers present could not see where the black object they perceived as a gun was now located, and because Mr. Lopez had just threatened them and appeared to be ignoring additional commands, Officer Reynoso deployed a 40 mm (non-lethal) foam-tipped round against Mr. Lopez's lower body: to determine his responsiveness and to redress the threat they still believed Mr. Lopez posed: as officers on the scene believed that there was a firearm under Lopez's body.	Exh. 1, Composite Video at 02:46-04:29; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 6, Martinez Interview; Exh. 9, Mullins Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at pp. 11, 17-18; Exh. 21, Delgado Interview Transcript at 40:10-23; Exh. 22, Sgt. Weber Interview Transcript at 54:1-55:5; Exh. 23, Panov Interview Transcript at 48:5-13, 48:19-49:1; Exh. 24, Martinez Interview Transcript at p. 36; Exh. 26, Heitman Interview Transcript at 55:1-56:24, 59:1-6; Exh. 27, Mullins Interview Transcript at p. 10.
35.	However, Mr. Lopez did not move in response to the 40mm deployment.	Exh. 1, Composite Video at 04:29-04:35; Exh. 2, Reynoso Interview; Exh. 5, Weber Interview; Exh. 9, Mullins Interview; Exh. 13, Heitman Interview; Exh. 14, Panov Interview; Exh. 15, Delgado Interview; Exh. 19, Reynoso Interview Transcript at p. 11; Exh.

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Defs.' SUF No.	Fact	Supporting Evidence ¹																									
		21, Delgado Interview Transcript at 40:24-41:7; Exh. 22, Weber Interview Transcript at 54:1-55:5; Exh. 23, Panov Interview Transcript at 49:2-4; Exh. 26, Heitman Interview Transcript at 59:5-60:6; Exh. 27, Mullins Interview Transcript at p. 10.																									
36.	Seeing this, APD SWAT officers then approached, handcuffed, and searched Mr. Lopez.	Exh. 1 Exh. 5, Weber Interview; Exh. 2, Reynoso Interview; Exh. 6, Martinez Interview; Exh. 9, Mullins Interview; Exh. 19, Reynoso Interview Transcript at pp. 11, 17-18; Exh. 22, Weber Interview Transcript at 55:6-56:3; Exh. 24, Martinez Interview Transcript at pp. 36-37; Exh. 27, Mullins Interview Transcript at p. 10.																									
37.	At around 10:06 p.m., APD SWAT officers then determined that Mr. Lopez was deceased at the scene.	Dkt. 71 at ¶29 (“DECEDENT was shot and killed.”).																									
38.	A firearm was not found in Mr. Lopez’s possession.	Exh. 14, Panov Interview; Exh. 23, Panov interview Transcript at 49:21-25.																									
39.	After the shooting, the black object was determined to be a black pouch; however, at all times before shots were fired, the defendant officers had believed that object held by Mr. Lopez to be a gun that he was raising to fire at them.	Exh. 15, Delgado Interview; Exh. 22, Delgado Interview Transcript at 52:18-53:4.																									
40.	APD’s policies clearly demonstrate that APD trains its officers to act in accordance to the appropriate legal	Exh. 30, Anaheim Police Department Policy 300: Use of																									

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1 2 3 4 5 6 7 8 9 10 11	12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	1 2 3 4 5 6 7 8 9 10 11	12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28
		standard, including, but not limited to, the factors to determine the reasonableness of force and when lethal force should be used.	Force.
41.	Plaintiff Johanna Lopez admits that she did not see any aspect of the shooting incident; rather, she alleges that she heard gunshots and assumed that Mr. Lopez was being injured and/or killed at that time.	Exh. 31, Deposition of Plaintiff Johanna Lopez, taken on May 8, 2024 at 38:17-39:5, 39:13-40:8, 40:19-24, 42:22-25, 47:15-25, 51:7-17, 52:15-22, 58:23-59:9, 59:23-62:22, 65:1-11, 66:2-8, 68:13-69:18	

DATED: July 15, 2024

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